

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Kevin L. Ballard v. Johnson County District Court

Ballard · No. 8:25-cv-00639 · Decided December 3, 2025

SUMMARY

The United States District Court for the District of Nebraska dismissed Kevin L. Ballard’s 28 U.S.C. § 2254 habeas petition without prejudice. The court held that Ballard named the wrong respondent and had not exhausted available state-court remedies. The court also denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	John M. Gerrard
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	December 3, 2025
DOCKET	8:25-cv-00639
DISPOSITION	dismissed
PROCEDURAL POSTURE	Preliminary review of a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254.
STANDARD OF REVIEW	On preliminary review, the court considered whether the petition stated a cognizable basis for federal habeas relief, whether the proper respondent was named, and whether state remedies had been exhausted. The court applied the exhaustion standard under 28 U.S.C. § 2254 and the certificate-of-appealability standards for procedural rulings.
PRECEDENTIAL VALUE	Unknown
PARTIES	Kevin L. Ballard v. Johnson County District Court

TOPICS

- federal habeas corpus
- post-conviction relief
- appellate procedure
- criminal procedure
- procedural due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the § 2254 petition could proceed when Ballard named the Johnson County District Court rather than the state official or entity responsible for his custody.
2. Whether the federal habeas petition was subject to dismissal because Ballard had not exhausted available state-court remedies.
3. Whether Ballard was entitled to a certificate of appealability from the procedural dismissal.

HOLDINGS

1. A § 2254 petition is subject to dismissal when the petitioner names a respondent that was not involved in the state proceedings and is not the petitioner's custodian.
2. A state prisoner must fairly present each federal constitutional claim to the state courts through one complete round of the State's established appellate review process before seeking federal habeas relief, absent a statutory exception.
3. A certificate of appealability should not issue because Ballard failed to make the showing required to appeal the procedural dismissal of his § 2254 petition.

KEY QUOTATIONS

“Because the exhaustion doctrine is designed to give the state courts a full and fair opportunity to resolve federal constitutional claims before those claims are presented to the federal courts . . . state prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State’s established appellate review process.” (Discussion)

“To be clear, exhaustion of available state postconviction relief is a necessary prerequisite to seeking federal habeas relief under 28 U.S.C. § 2254.” (Discussion)

FACTUAL BACKGROUND

Ballard was charged with driving under the influence in Saunders County, Nebraska, and appeared by Zoom before the county court. He entered a no contest plea after being told he would not have counsel that day, later sought toxicology information and withdrawal of his plea, and was sentenced after those requests were denied. He appealed to the Saunders County District Court, which affirmed, but he did not pursue further state appellate or post-conviction review. Ballard filed a federal § 2254 petition naming the Johnson County District Court, although that court was not involved in his prosecution and was not his custodian.

PROCEDURAL HISTORY

Ballard was convicted and sentenced for driving under the influence in Nebraska state court after entering a no contest plea. The Saunders County District Court affirmed the conviction and sentence on September 16, 2025, and the state-court mandate issued October 17, 2025. Ballard then filed this federal § 2254 petition, but he had not completed the available Nebraska appellate and post-conviction remedies and named the wrong respondent.

The federal district court dismissed the petition without prejudice on preliminary review and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- State v. Kevin Ballard, Sr., CR 25-133 (Saunders Cnty. Ct.)
- State v. Kevin L. Ballard, Sr., CR25-41 (Saunders Dist. Ct.)
- Stutzka v. McCarville, 420 F.3d 757, 760 n.2 (8th Cir. 2005)
- O’Sullivan v. Boerckel, 526 U.S. 838, 844-45 (1999)
- Akins v. Kenney, 410 F.3d 451, 454-55 (8th Cir. 2005)
- Rose v. Lundy, 455 U.S. 509, 520 (1982)
- Slack v. McDaniel, 529 U.S. 473, 484-85 (2000)